



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 20, 1998

Mr. Helmut F. Talton
Associate General Counsel
Texas Department of Transportation
125 E. 11th Street
Austin, Texas 78701-2483

OR98-1986

Dear Mr. Talton:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117981.

The Department of Transportation received a request for information pertaining to a particular job vacancy. You say you have released some of the requested information "with confidential information redacted."¹ However, you submit "representative samples"² interview questions with both preferred answers and the answers given by successful applicants and ask whether these materials may be withheld under Government Code section 552.122(b). Section 552.122(b) excepts from required disclosure "a test item developed by a....governmental body."

"[T]he term 'test item' in section 552.122(b) generally includes any standard means by which an individual's or group's knowledge of ability in particular area is evaluated." Open Records Decision No. 626 (1994). Traditionally, a key factor in determining whether

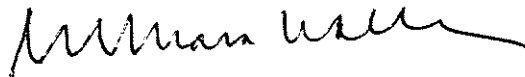
¹We do not address here either the materials you say you have released or the propriety of your redactions therefrom. *But see* Gov't Code § 552.301 (absent a previous determination, governmental body must seek attorney general decision whether information may be withheld).

²In reaching our conclusion, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

particular materials constitute exceptable "test items" has been whether they were to be used again in future evaluations such that disclosure would compromise their effectiveness. Attorney General Opinion JM-640 (1987). Having reviewed the material you submitted, we conclude that the items numbered 1, 3, and 7 may be withheld as section 552.122(b) "test items." The remaining material must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



William Walker
Assistant Attorney General
Open Records Division

WMW/ch

Ref: ID# 117981

Enclosures: Submitted documents

cc: Ms. Judy Lynn Thorp
1706 Treeline Drive
Cedar Park, Texas 78613
(w/o enclosures)